

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TIERONE BANK,

Plaintiff,

V.

HARTFORD CASUALTY INSURANCE )  
COMPANY and HARTFORD ACCIDENT )  
AND INDEMNITY COMPANY, )

Defendants.

Case No. 4:08-CV-3156

ORDER

Based upon the stipulation of the parties,

IT IS HEREBY ORDERED THAT:

1. To the extent not resolved by the Court on motions for summary judgment, plaintiff's claims for prejudgment interest and reasonable attorneys fees will be decided by the Court without a jury.
2. Defendants' designation of John Diaconis as an expert witness in this case is hereby stricken, which renders moot plaintiff's motion to strike, or in the alternative, to compel. Defendants did not, merely by reason of designating Mr. Diaconis as an expert witness, waive the attorney-client privilege or work-product protection. This order does not extend to any other issue of waiver of privilege or work product.

Dated this 27<sup>th</sup> day of April 2009.

BY THE COURT

s/ David L. Piester

David L. Piester  
United States Magistrate Judge,